**STATE OF CALIFORNIA**

**DEPARTMENT OF INDUSTRIAL RELATIONS**

**Division of Workers’ Compensation**

**FINAL STATEMENT OF REASONS**

**Subject Matter of Regulations: Copy Service Rate Schedule**

**California Code of Regulations, Title 8, Subchapter 1, Article 12**

**Sections 9980-9985**.

**UPDATE OF INITIAL STATEMENT OF REASONS**

Two public hearings were held on August 20, 2021 and February 25, 2022 with 30-day comment periods. Final proposed changes include:

Amend 9980 Definitions

Amend 9981 Bills for Copy Services

Amend 9982 Allowable Services

Amend 9983 Rates for Copy and Related Services (Prior to July 15, 2022).

Adopt 9984 Rates for Copy and Related Services (On and After July 15, 2022).

Adopt 9985 Disputes

**Section 9980 – Definitions**

Definitions for “Additional set of records,” “contracted services,” and “copy and related services” have been added to ensure that their meanings will be clear to the regulated public.

Subsections (b), (c), and (f) have been amended for clarity.

The word “physical” has been deleted to include custody of electronic records in subsection (e).

Subsection (g) “and includes separate types of records requested for a single source regardless of the number of subpoenas or authorizations issued,” was added to the definition of “Initial set of records” for clarity.

**Section 9981 Bills for Copy Services**

Subsection (a) has been amended to reflect July 1, 2015 as the effective date of the copy service schedule for clarity.

Subsection (c) was reworded of former subsection (d) which was deleted.

New codes have been added: WC019 Flat Rate ($230.00), WC 021 Cancelled Service ($75.00), WC 022 Certificate of No Record ($75.00), W 023 Per Page Rate for documents over 500 pages ($0.10 per page), WC 028 Duplication of X-Ray or scan ($10.26), WC 029 Electronic Storage Media ($3.00), WC 030 Requested Services, WC 031 Contracted Rate for Additional Sets, WC 032 Contracted Services, WC 033 Additional Set ($10.00), WC 034 Surcharge for Late Payment, and S9999 Sales Tax (which is the same code utilized in the Official Medical Fee Schedule for sales tax.) The new codes correspond with changes which added these new rates to the schedule.

Subsection (e) was added to address the problem of untimely-paid bills. DWC is aware of collection issues that copy services have when claims administrators fail to pay and/or object to bills. Currently there is no incentive to pay bills in a timely manner and copy services often must file for assistance from the Workers’ Compensation Appeals Board to receive payment.

**Section 9982 Allowable Services**

Subsections (a), (b), and (c) the word “fee” was deleted.

Subsection (a) “a contracted between the employer and the copy service provider” was replaced with the insertion of “contracted” to describe “except contracted services”.

Subsection (b) an incorrect section number was corrected.

Subsection (d)(3) was added to prevent medical providers from improperly charging for inspection of records. It is necessary to prevent improper charges.

Subsection (e)(1) was amended to prevent fraud. The change is necessary as bills were submitted before good cause was established.

Subsection (e)(4) was added. “Charges for records submitted to the Independent Medical Review Organization (IMRO) for independent medical review, where submitted records are already in the possession of the injured worker or the injured worker’s representative, or which are duplicative of those submitted to the IMRO by the claims administrator,” to avoid unnecessary costs. Treating physicians are required to timely report under section 9785.and parties have a continuing obligation to serve medical reports under section 10635.The practice of ordering records from the injured worker’s file or from the treating physician for submission to IMR has unnecessarily increased costs.

Subsection (e)(5) “Charges for services related to, or cancellation of, a subpoena for records in the employer’s, claims administrator’s, or workers’ compensation insurer’s possession, where a signed order quashing the subpoena has been served on the copy service,” was added to limit liability for copy service costs in cases with quashed subpoenas.

Subsection (e)(6) added a provision that claims administrators are not liable for payment of “More than four Certificates of No Record (CNR) on a claim with dates of service on or after July 15, 2022.

**Section 9983 Rates for Copy and Related Services (Prior to July 15, 2022).**

The first sentence of section 9983 deletes “not including sales tax” and moves the sales tax provision to subsection (b)(4) for clarity.

“For dates of service prior to July 15, 2022” was added to the first sentence because new section 9984 will cover dates of service after the effective date of the changes.

(a)(1)(A) was moved former subsection (e) for clarity.

Subsection (b) “fee” was changed to “rate” and “allowed in subdivision (a)(1) was added or clarity and “fees apply” was changed to “rates may be charged” for clarity.

Subsection (b)(1) added “for paper copies” as additional costs are not incurred with large amounts of electronic pages.

Subsection (b)(3) “are to be paid” was deleted for clarity.

**Section 9984 Rates for Copy and Related Services (On and After July 15, 2022)**

New section 9984 mirrors 9983 except that it raises the flat rate from $180 to $230 on and after July 15, 2022 and proposes $10 for each additional set of records instead of a tiered system of $5 or $30 based on when an additional electronic set is requested.

Fees for records from WCIRB and EDD are no longer provided under section 9984 because WCIRB records are available to injured workers at less cost than $225 upon request and EDD records are available to injured workers at no cost upon request.

**9985 Disputes**

The second sentence of former section 9983(3) was moved to 9985.

**LOCAL MANDATES DETERMINATION**

* No Local Mandate. The proposed changes will not impose any new mandated programs or increased service levels on any local agency or school district.
* No reimbursable costs to any local agency or school district. The proposed changes will not incur any new reimbursable costs to any local agency or school district.
* No other nondiscretionary costs/savings imposed upon local agencies. The proposed changes will not result in any costs or savings to any local agency or school district.

**CONSIDERATION OF ALTERNATIVES**

Copy services have requested increases in prices and for an automatic cost-of-living increase. The flat price was increased to $230 but DWC will consider future increases and will not adopt an automatic cost-of-living increase as it is not clear that future increases will be warranted.

The Administrative Director has determined that no alternatives would be more effective or less burdensome.

**COMMENTS**

Comments are addressed in two charts following two 30-day comment periods from July 30, 2021 to August 30, 2021 and from January 26, 2022 to February 25, 2022. A memo outlines the proposed changes for each comment period.